

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-1457**

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In Re: SAMUEL H. SLOAN, a/k/a Ismail Sloan,  
Petitioner.

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On Petition for Writ of Mandamus. (6:09-cv-00005-NKM)

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Submitted: August 6, 2009

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Decided: August 26, 2009

Before NIEMEYER, MOTZ, and KING, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Samuel H. Sloan, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Samuel H. Sloan has filed a petition for writ of mandamus or prohibition with this court, requesting we remove Judge Norman K. Moon from further adjudicating Sloan's civil action in the United States District Court for the Western District of Virginia. Mandamus relief is available only when the petitioner has a clear right to the relief sought. United States v. Moussaoui, 333 F.3d 509, 517 (4th Cir. 2003). Further, mandamus is a drastic remedy and should be used only in extraordinary circumstances. Id. at 516. Mandamus may not be used as a substitute for appeal. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

Similarly, a writ of prohibition should not issue unless it "clearly appears that the inferior court is about to exceed its jurisdiction." Smith v. Whitney, 116 U.S. 167, 176 (1886). A writ of prohibition, like mandamus, a drastic remedy, should be granted only where the petitioner's right to the requested relief is clear and indisputable. In re Vargas, 723 F.2d 1461, 1468 (10th Cir. 1983); In re Missouri, 664 F.2d 178, 180 (8th Cir. 1981). Further, a writ of prohibition should be granted only where the petitioner has no other adequate means of relief, In re Banker's Trust Co., 775 F.2d 545, 547 (3d Cir. 1985), and a writ of prohibition may not be used as a substitute for the normal appellate process. Missouri, 664 F.2d at 180.

Our review of the record indicates that Sloan's action has been dismissed by the district court and no motions remain outstanding. Sloan v. Smith, No. 6:09-cv-00005-NKM (W.D. Va. Feb. 24, Apr. 23, 2009). Accordingly, while we grant leave to proceed in forma pauperis, we deny Sloan's petition as moot. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED